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Ray Kelly's Gulag

By Graham Rayman Wednesday, Nov 16 2011

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Police Commissioner Ray Kelly keeps a secret list of police officers who cannot be transferred without his specific approval. The list, which the *Voice* obtained from an NYPD employee, is part of a 23-page spreadsheet that contains the names of 2,300 officers, their ranks, their ID numbers, old units, new units, and coded descriptions of thousands of personnel decisions throughout the past several years. Strangely, the document isn't marked with any police insignia or command titles.

In all, according to the list, Kelly banned transfers without his specific approval for at least 96 police officers over the past several years and rejected pending transfers for at least 59 more, which overrules his subordinates. He also transferred 228 officers to VIPER, where cops sit and stare at video screens to monitor crime in public housing—a unit seen as a dumping ground for those in trouble or out of favor, where careers can languish for years. Hundreds more names on the list are of officers "transferred for cause," or sent to another command for some transgression, which could be anything from serious misconduct to irritating a commander.

Most of the officers who made the list don't know that the commissioner essentially froze their careers in place, in what some department insiders say is Kelly's version of the city's notorious former "rubber room" system for teachers awaiting adjudication of their cases, where they were asked to sit indefinitely in classrooms away from students. Others call the list Kelly's "gulag," a way of punishing officers without forcing them to retire or quit.

Once a name goes on the list, it doesn't come off, even after years have passed and an officer has been brought back into the fold—a circumstance that someone likened to being forced to wear a scarlet letter for the duration of his or her career. In its stark, clipped language, the secret spreadsheet offers a rare insight into how the department is run by Kelly, who will soon become the city's longest-serving police commissioner. It also might give an indication of how he would run the city if he runs for and is elected mayor.

Most importantly, the list confirms Kelly's reputation as a micromanager who reviews just about every transfer that takes place in the largest police department in the country.

Paul Browne, a police spokesman, did not respond to *Voice* requests for a discussion of the spreadsheet.



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Ray Kelly has a big job, overseeing 40,000 employees and a multibillion-dollar budget larger than that of at least five states. But he is apparently also involved in many decisions that used to be delegated to subordinates.

To put it in context, prior to Kelly, police commissioners did not bother with low-level, routine transfers.

"In the old days, the police commissioner didn't get involved in that," says a former Kelly staffer. "The borough commanders would call each other and say, 'I need to move a guy,' or, 'I need a guy from Precinct X.' Kelly centralized all of that."

Insiders attribute Kelly's involvement in these decisions to the behavior of his predecessor, Bernard Kerik, who, over Kelly's objections, promoted a large number of his NYPD cronies during his last days in office.

The source says that he often saw Kelly come into his 14th-floor office at One Police Plaza on Sunday afternoons to pore over transfer requests and related documents.

That's a different image than the one Kelly himself has been promoting lately as his department is hit with a series of corruption cases. Kelly has put these problems down to a "few bad apples," as if there were things going sour in his department that he was unaware of.

Murray Weiss, a respected longtime police reporter now writing for DNAinfo, recently noted that the "bad apple approach may deflect a troublesome story, but it has insidious shortcomings. It sends the message that the NYPD is a closed society that will protect its own."

The spreadsheet illustrates, however, that Kelly is even more hands-on than he lets on with individual police officers he considers problematic in some way. In this story, we have looked at some of the many decisions Kelly has made that are indicated in the spreadsheet. In some cases, we do not have a complete set of facts or history to explain Kelly's decisions. For that reason, the Voice



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bogus complaint and no evidence, the DA's office charged two honorable police officers in a successful attempt to generate pre-election publicity," Lynch said.

And then, in January 2008, Albertelli was transferred to the 111th Precinct with the notation "Don't move again without PC approval."

Was that failed indictment enough to plant the scarlet letter on Albertelli for the rest of his career? Did he get in trouble for something else?

Some of the people on the list seem to be there for insignificant reasons. The entry next to the name of another officer, Kathleen Clifford, reads, "Do not transfer again without explicit PC approval." Clifford's "crime": Records show that she arrived at work 25 minutes late. Her sergeant told her to change into her uniform immediately. Instead, she detoured to look at a sheet that listed assignments for the day. As a result, she was penalized 10 vacation days for failing to comply with a supervisor's order. That seems like a fairly inconsequential transgression.

Detective Roland Gutierrez, similarly, was sent to the 24th Detective Squad, again with the notation "Do not move without PC approval." Why? Well, it might have had to do with a discrimination lawsuit that Gutierrez, then with the 52nd Precinct in the Bronx, filed in 2007 with three other Latino detectives.

In suing Kelly and several other bosses, Gutierrez and his co-workers alleged that white investigators received more overtime and better assignments, court records show. They also alleged that they were passed over for promotions, and their requests for transfer were ignored.

Gutierrez was also accused of using a department vehicle to drive his civilian girlfriend to a baseball game and a restaurant and was placed on modified assignment. That might have been the reason, too.

Officer Luis Gutierrez was similarly frozen. His entry reads: "Do not transfer out of property clerk without PC approval."

Some officers who make the "do not transfer" list go on to distinguish themselves. Antonio Esposito made the list, but by last May, apparently, he had been rehabilitated, testifying as a key witness for prosecutors in the case of a woman beaten into a coma during a parking dispute.

James Gillespie was sent to the Sixth Precinct after being swept up in a Brooklyn South Narcotics investigation that resulted in many transfers of police officers. Gillespie in 2009 was honored by the Greenwich Village-Chelsea Chamber of Commerce as a "cop of the year"

is withholding some names that appear on the list.

One of the officers designated "do not transfer without PC approval" is James Albertelli, who was indicted in 2005 on bribery and coercion charges when he was assigned to the 13th Precinct in Manhattan.

But in 2006, he was acquitted of all charges, and Patrolmen's Benevolent Association boss Patrick Lynch called it a "politically motivated case." "With nothing more than a



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for catching a serial armed robber who committed numerous crimes in 2008.

In 2000, Detective Joseph Perry was lauded for his work in catching the murderer of a young social worker in Brooklyn. In 2006, he was credited with his role in an investigation that led to the arrest of a Queens man with a cache of firearms in his home. But he, too, ended up on the "do not transfer" list.

Sergeant Michael Miller was also placed on the "do not transfer" list, one of about a dozen officers put on there following an investigation of corruption allegations in Brooklyn South Narcotics. The notation sends him to the 120th Precinct in Staten Island.

Last month, Miller saved his own life during a struggle with a gunman by ingeniously sticking his finger into his assailant's gun barrel and forcing his thumb between the hammer and the firing pin. In other words, an officer who was transferred in the wake of one investigation was hailed as a hero a few years later.

Perhaps the most famous officer to be frozen in place by Kelly is Kenneth Boss, who was one of the four officers who shot and killed unarmed Guinean immigrant Amadou Diallo in 1999. For the past 13 years, Boss, who is still on the force, has been without his police-issued guns and assigned to nonenforcement duties.

Although Boss was acquitted of all charges in the Diallo case, Kelly refuses to rehabilitate him, which is understandable. Boss has sued twice to force the department to return him to full duty, but the lawsuits were dismissed each time.

And then there's Richard Neri, who shot and killed unarmed 19-year-old Timothy Stansbury in early 2004. Kelly suspended him for 30 days. Neri was placed on the "do not transfer" list and sent to the property clerk division, where he will presumably serve out his career but remain employed and likely receive a pension. The city paid \$2 million to settle a lawsuit filed by Stansbury's family.

Another officer who made Kelly's "do not transfer" list is Alain Schaberger. According to the entry, Schaberger had been on modified assignment for some reason in the Manhattan South command. Kelly ordered him transferred from Manhattan South to the 84th Precinct in Brooklyn.

In March, as he was responding to a domestic-violence call in the 84th, Schaberger was pushed over a railing and struck his head, killing him. His funeral was attended by thousands of police officers, Commissioner Kelly, and Mayor Bloomberg, who referred to him as a "quiet, gentle soul." His commander called him a "true cop's cop."

Kelly, the list indicates, appears to use certain units as dumping grounds for cops on the outs, including VIPER, the property clerks division, and the auto yards.

VIPER is a unit assigned to city housing projects, where officers monitor closed-circuit video cameras and look for crimes in progress.

VIPER is used to officers who are accused of serious misconduct, but it is also used to marooned officers who have angered their superiors or committed minor transgressions. In those instances, the effect is to keep an officer, who could be contributing to the fight against crime, off the street. One cop spent three years in VIPER after he annoyed a senior department official by complaining about the conduct of a co-worker.

The list goes beyond transfers and exhibits an amazing level of detail about the personal lives of officers in the NYPD. It even includes the names of police officers who are married

to other police officers. Kelly keeps tabs on female officers who are pregnant. And it lists the names of officers referred for substance-abuse counseling or psychiatric help.

The list also notes where certain officers can or can't be transferred. For example, according to the spreadsheet, a sergeant was moved out of the Organized Crime Control Bureau on the orders of Internal Affairs chief Charles Campisi. (The *Voice* is withholding the name of the sergeant.) The notation reads: "Do not assign to Brooklyn or Queens." The reason for this is unclear.

Another entry indicates that Assistant Chief Joseph Cunneen ordered that Sergeant Steven McGuire be transferred to a command near his house. "Move closer to home AC Cunneen," the entry for McGuire reads.

That entry sounds an awful lot like Cunneen was doing a favor for McGuire, and Kelly went along with it.

And the list notes, in several instances, officers who shouldn't be assigned in the same precinct with one another, presumably because they had some kind of personal clash.

Kelly, insiders say, doesn't like people coming directly to him to ask for favorable transfers for a protégé, nor does he like people using backdoor connections to win transfers.

Just two weeks ago, as the *Daily News* reported, Kelly ignored letters from State Senator Eric Adams and Bronx Borough President Ruben Diaz Jr. asking him to appoint Lieutenant Robert Gonzalez as head of training.

Instead, Kelly selected James O'Keefe, who held the job during the mid-1990s. He described O'Keefe as someone who met the highest possible standards. He never interviewed Gonzalez, the *News* reported.

For his part, Gonzalez was miffed that he didn't get the interview, telling the *News*, "It would have been nice to be granted an interview and taken seriously."

Similarly on a number of occasions, the list shows, Kelly has rejected transfer requests in ways that appear to reject favoritism. For example, when Detective Denise Marciano was up to transfer to the Real Time Crime Center, where cops monitor crime trends, Kelly himself turned her down. The spreadsheet notes: "Disapproved by PC. Has to go through channels."

That entry suggests that someone tried to bring Marciano in through the back door, and Kelly rejected it.

Other cases in which Kelly rejects transfers are less clear. Kelly "disapproved" the transfer of Officer Denise James from the 60th Precinct to Homeless Outreach.

He also rejected the transfer of Officer Timothy Hennessey from the transit bureau to the elite Regional Intelligence Support Center.

Another cop was about to go to the elite Major Case Squad, but that, too, was rejected by Kelly.

Sergeant Edward Babington's impending transfer from the 67th Precinct in Brooklyn to the Public Security Section was also stopped cold by Kelly, as was John Cronin's transfer to the Manhattan Traffic Task Force.

Another curious entry in the list is for Officer Reginald Jones. The entry states: "When receive paper from PC, transfer for cause to a busy lower Bronx precinct."

Evidently, Jones transgressed in some way, and he's being punished by being sent to a place where he'll have to work harder.

The use of penalty transfers and freezing cops in place rather than firing them shows another side of Kelly, insiders say. "He doesn't want to fire cops," a source says. "He would rather stick you somewhere to teach you a lesson, and then if you straighten up, you can come back. He actually wants to give you a second chance."

Indeed, from January 2011 through the end of August, Kelly fired just two of 147 officers found guilty of civilian-complaint-related disciplinary infractions. In 2010, he fired no officers from cases referred by the Civilian Complaint Review Board.

That hesitancy to fire officers can generate controversy. One cop who beat a fellow officer with a beer mug wasn't fired. Instead, he was sent into VIPER for a couple of years and then into reinstatement training to see if he was ready to return to enforcement duties.

A cop critical of the handling of this officer's case says: "The NYPD should have gotten rid of him sooner. Instead, his pension keeps getting bigger."

Another cop, accused of making complaint reports disappear and stalking his commander's wife, also wasn't fired. Instead, he was sent to VIPER and left there. When he retires, he'll cost the city more than he would have had he been fired.

A captain, meanwhile, accused of assaulting a female officer wasn't fired for that attack. He kept his job and his salary and is assigned to nonenforcement duties.

There's also a police officer who gets his full salary for signing in and then trudging off to work a second job as a doorman at a downtown building.

A fourth cop was caught moving steroids from Canada to the U.S. He was subsequently promoted to lieutenant.

Kelly also labels some officers "not suitable" for certain commands. The entry for a sergeant named Kevin Finegan reads: "Not suitable for assign to OCCB [the Organized Crime Control Bureau], returned to 43rd Precinct as per PC."

The entry for Officer Joseph Liotta, meanwhile, reads: "Not suitable for highway."

In January 2007, Liotta pulled over Hoboken, New Jersey, city councilman Chris Campos on the West Side Highway. He and his partner determined that the councilman had been drinking.

Liotta thought it would be a good idea to call Hoboken police and ask them what they thought of Campos. The conversation was automatically tape-recorded.

"Would it be a good or a bad thing for him to become a guest of the city?" Liotta asked Hoboken Police Department duty sergeant James Peck.

The sergeant replied: "Enforce the law. . . . The fact that we've been without a contract for two years, that's beside the point."

Liotta arrested Campos on three drunk-driving misdemeanors. The councilman was found guilty of two, fined, and lost his license for 90 days. Campos also lost his council seat.

Kelly certainly could have fired Liotta for appearing to use his police powers to embarrass a politician, but his solution instead was a transfer.